

Basingstoke & Deane Local Plan Examination

Notes of Pre Hearing Meeting which took place at 10.00am on Tuesday 21 July 2015 in the Civic Offices, Basingstoke

Present:

Planning Inspectorate

Inspector Mike Fox Planning Inspector
Mrs Katharine Makant Programme Officer

Basingstoke & Deane Borough Council

Mrs Karen Brimacombe Director of BDBC Services
Ms Jill Fisher Policy Manager, Planning Policy & Infrastructure
Mrs Joanne Brombley Planning Policy Team Leader
Mr Mark Lambert Design, Environment & Infrastructure Team Leader
Mr Edward Rehill Principal Planning Officer
Mr Matthew Melville Principal Planning Officer
Mr Andrew Rushmer Senior Planning Officer
Mrs Suzanne Smith Principal Lawyer

1. Opening and Introductions

- 1.1 Inspector Mike Fox opened the Pre-Hearing Meeting, which was attended by about 50 people, and explained that he had been appointed by the Secretary of State to carry out an independent investigation into the legal compliance and soundness of the Basingstoke & Deane Local Plan (the Plan) under S20 of the Planning and Compulsory Purchase Act 2004. He confirmed that the hearing part of the Examination would commence on Tuesday 6 October in the Civic Offices, Basingstoke, and that they were currently scheduled to end on Wednesday 11 November 2015.
- 1.2 The Inspector then introduced the Programme Officer, Katharine Makant. On behalf of the Council, Ms Fisher introduced Ms Karen Brimacombe, a Director of BDBC Services, and the officer team listed above.
- 1.3 Referring to the opportunities to ask questions later, the Inspector asked everyone to introduce themselves when they spoke, explaining who they represented (if appropriate) and their interest in the Examination.

2. Purpose of the Pre Hearing Meeting

- 2.1 The Inspector explained that the purpose of the Pre Hearing Meeting was to provide an opportunity for:
- **Procedural and administrative matters** relating to the Examination to be explained and discussed: and
 - Consideration of the **Draft Hearing Programme**, the topics identified, the running order, participants and any other relevant matters.

2.2 He then outlined the agenda for the meeting and stressed that no evidence would be heard at the meeting or discussion allowed as to the merits of cases or representations. A note of the meeting would be made available on the Examination website. A draft agenda for each session had been put together but this could change and it was important for participants to check with website or contact the Programme Officer to keep up with developments.

3. Role of the Programme Officer

3.1 The Inspector noted that, for the purposes of the Examination, Katharine Makant, the Programme Officer, was and would continue to act as an **impartial** officer throughout the course of the Examination, under his direction. Details of how to contact her are set out on the Examination website www.basingstoke.gov.uk/Localplanexamination and at the end of this note.

3.2 Katharine's principal functions were:

- To act as a channel of communication between the Inspector and the parties and to **liaise** with all parties to ensure the smooth running of the Examination;
- To ensure that the **documents** received both before and during the Examination were recorded and distributed;
- To maintain the **Examination Library**, including the Core Document list, including all the core documents and representations;
- To **assist** the Inspector in all procedural and administrative matters;
- To advise participants on any **programming matters** – all **procedural queries** should be addressed to her in the first place, so that she could pass them on to the Inspector.

4. Scope of the Examination and the Inspector's Role

4.1 The Inspector explained that his role was to consider whether the Plan met the requirements of the 2004 Planning and Compulsory Purchase Act and associated Regulations against the **tests of soundness** set out in paragraph 182 of the National Planning Policy Framework, referred to as the NPPF or *the Framework*.

4.2 There were four tests of soundness that he had to consider, which were whether the plan was:

- **Positively prepared:** Based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, consistent with achieving sustainable development;
- **Justified:** The most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective:** The plan should be deliverable over its period, which implies flexibility and ability to be monitored;
- **Consistent with national policy:** The Plan should enable the delivery of sustainable development in accordance with the policies of *the Framework*

- 4.3 He started from the presumption that the Plan was fundamentally sound, unless it was shown to be otherwise as a result of evidence presented to him in written representations or at the Hearings. Therefore, those **seeking changes to the Plan had to demonstrate that it was not sound.**
- 4.4 The Inspector went on to explain how the process of examining plans under the new Local Development Framework system was different from the previous local plan system. Firstly, the **focus was on the Plan** rather than the objections. Under the new system his role was to examine the soundness of the Plan having regard to the representations made, rather than simply considering the objections that have been made. Secondly, the **process of examination** was more akin to an appeal Hearing, with round table and hearing sessions addressing particular topics, rather than the traditional form of public inquiry considering objections. In fact the Inspector was not required to respond to all the objections.
- 4.5 Following the closure of the Hearing sessions, the Inspector would prepare a **report to the Council** with his conclusions and the action it needed to take with regard to the soundness of the Plan. On receipt of the report, the Council should amend the Plan in the light of the main modifications, which the Council will have suggested in the light of the issues raised during the Examination, and move swiftly to its formal adoption.
- 4.6 The Inspector understood that a total of **1,273 representations** from 315 different respondents had been received in relation to the Proposed Submission Draft in 2013. A further total of **1,473 representations** from 511 different respondents had been received to the Revised Submission Draft in 2014. Since the Exploratory Meeting had been held in December 2014, a further total of approximately **500 representations** from 162 different respondents had been received to the Council's proposed Main Modifications in 2015. The Main Modifications were set out in document PS/02/15, dated May 2015, and the Inspector wished to make it absolutely clear that he would be examining the **submitted document CD/03** but taking into account the proposed **Main Modifications in document PS/02/15**. These two documents comprised the Plan that he was examining and which would be the focus of the Examination hearings.
- 4.7 The Inspector went on to refer to earlier versions of the Plan documents issued by the Council, which had also attracted representations. However, these consultations had taken place at **informal stages** and would not be addressed in his report. He was not asking the Council to comment on these earlier representations unless it wished to do so.
- 4.8 The Inspector noted that the Council had already suggested changes or **main modifications** to the Submission Document [CD/03] in the light of the duly made representations and it was likely that this process would continue throughout the hearings. He therefore requested that the Council **updates this schedule of suggested key soundness changes** from the submitted Plan, in addition to the schedule of any minor changes which the Council may prepare.

5. Procedural Questions for the Council

- 5.1 The Inspector put the following questions to the Council, which Ms Fisher answered:
- 5.2 **Question:** Can the Council confirm that the Plan has been prepared in accordance with the **Local Development Scheme**?
Response: I can confirm that the Council considers that it has prepared the plan in accordance with the Local Development Scheme. Please refer to the Borough Council's most up to date LDS (5th edition) [BD01].
- 5.3 **Question:** Can the Council confirm that the Plan has been prepared in general accordance with the **Statement of Community Involvement** and public consultation requirements?
Response: I can confirm that the Council considers that the plan has been prepared in accordance with the Borough Council's Statement of Community Involvement, adopted in July 2007 [BD03]. A summary of the preparation of, publication and availability of documents is available within the Basingstoke and Deane Borough Local Plan 2029 Regulation 22(c) Statements of Consultation [CD 10]. A Summary of responses received during the recent consultation (11 May to 22 June 2015) is also available in the Consultation Statement for the Proposed Main Modifications to the Submission Local Plan [PS/02/30].
- 5.4 **Question:** Can the Council confirm that the Plan has been subjected to a **Sustainability Appraisal**?
Response: I can confirm that the Council considers that the Plan has been subject to appropriate and robust Sustainability Appraisal, as set out in the relevant documents [SA 01-SA09] and [PS/02/16].
- 5.5 **Question:** Can the Council confirm that the Plan has been prepared in accordance with **national policy**?
Response: I can confirm that the Plan has been prepared in conformity with the National Planning Policy Framework and National Planning Practice Guidance.
- 5.6 **Question:** Can the Council confirm that the Plan has been prepared in accordance with a **Habitats Regulations Assessment** and with its conclusions having been taken into account?
Response: I can confirm that the Council considers that the Plan has been screened adequately for likely significant effects on European wildlife sites through the preparation of an Appropriate Assessment / Habitats Regulations Assessment, as detailed in [CD 09] and the addendum of May 2015 [PS/02/19].
- 5.7 **Question:** Can the Council confirm that the Plan has been prepared in accordance with the **Duty to Cooperate**?
Response: I can confirm that the Council considers that it has demonstrated and continues to demonstrate its 'duty to co-operate', as detailed in new section 33A in the 2004 Act. A summary of the work undertaken can be found in the Council's Duty to Co-operate Statement [CD 08], the May 2015 update statement, [PS/02/04] and in the Consultation Statement for the Proposed Main Modifications to the Submission Local Plan [PS/02/30].

5.8 The Inspector thanked the Council and noted that its written response to his questions would be included in the Examination Library [PS/02/33]. He then explained that these legal requirements and any related representations from participants would be considered in full at the public hearings, insofar as they linked to his Key Issues and Discussion Note [PS/01/13].

5.9 Making reference to the Council's written response [PS/02/33], the Inspector noted that paragraph 1.12 stated that, in accordance with Section 20 (7C) of the Planning and Compulsory Purchase Act 2004 (as amended), the Council formally requested that, if applicable, the Inspector **recommend modifications** to the Local Plan, as may be necessary, to ensure legal compliance/soundness.

6. Procedure prior to the Hearing sessions of the Examination

6.1 The Inspector said that he would endeavour to progress the Examination Hearings in **an efficient and effective** manner. As part of that process, he aimed to minimise the amount of material to that necessary to come to informed conclusions on the issues. In that way, he hoped to conduct a **short but focused** series of Hearings and, in turn, a short, focused report. He noted that 5/6 weeks of hearings exceeded the average for a Local Plan Examination, but this reflected the number of prospective participants.

6.2 Those who had made duly made **representations** on the Plan should have already decided whether their views could be dealt with in a **written form** or whether they need to come and present them **orally** at a Hearing session. The Inspector would have equal regard to views put at a Hearing or in writing. In fact, it was only going to be helpful to the Examination and to the Inspector if people who wished to attend Hearings were willing to participate in a debate.

6.3 The Inspector went on to refer to the Draft Hearings Programme (V1) which had been published on the Examination website on 17 July 2015. The Draft Programme asked all prospective participants to contact the Programme Officer by no later than **31 July 2015** stating which of the listed sessions they wished to attend. To aid programming, participants were asked to limit their attendance to a maximum of FIVE sessions per client, organisation or individual, although requests to attend further sessions would be considered. He noted that participants may only attend sessions on issues on which they have made representations during the three relevant consultation periods (23 August – 4 Oct 2013, 25 April – 13 June 2014 and 11 May – 22 June 2015).

6.4 The Inspector noted that those who wished to proceed by written means only need take no further action; they could rely on what they had already submitted in writing, provided these representations had been made in the three relevant consultation periods set out above.

6.5 All those wishing to participate in the public hearings could submit **further written evidence** in support of their position, although they too could rely on previous written submissions if they had nothing further to add. Such statements should **focus on the issues** identified by the Inspector in his Guidance Note [PS/01/11] and Key Issues and Discussion Note [PS/01/13].

It would be helpful to him if statements could focus on:

- **What part** of the Plan is unsound (e.g. policy, paragraph or map);
- Which **soundness criteria** it fails (i.e. one of the four listed above);
- **Why it failed** (a summary would be acceptable if this has already been explained in earlier representations);
- How the Plan **could be made sound**; and
- The precise **change and/or wording** that is being sought.

6.6 From the Council, the Inspector required statements which set out why it considered the Plan to be sound and why the changes sought by other parties would make it unsound, or make suggestions for a soundness change.

6.7 All submissions needed to be succinct and the main requirements for statements were explained in Appendix B of the Guidance Note [PS/01/11]. The Inspector requested everyone to read this carefully and draw particular attention to the **3,000 word limit per issue** (not per question). However, he would allow the Council additional reporting length in relation to Issue 6, as well as Issue 5 as set out in the Key Issues and Discussion Note [PS/01/13].

6.8 On Issue 6 Omission Sites, the Inspector stated that he was not looking for representations objecting to any of these sites at this stage of the Examination. If any of these additional sites were included within the proposed Main Modifications after the hearing sessions, there would be a six week period of consultation and this was the time for any representations against these sites to be made.

6.9 The Inspector asked participants to remember that it was the **quality of reasoning** that carried weight, not the size of the documents, the width of the appendices or the number of times a point was repeated. The deadlines for submitting **electronic copies** of statements were as follows:

- **12 noon on Friday 11 September for Issues 1-6**
- **12 noon on Friday 25 September for Issues 7-11**

In addition, **THREE paper copies** of each statement should be submitted to the Programme Officer via the Council Offices by no later than **12 noon on the Monday** following the deadline.

6.10 The Inspector went on to ask that respondents whose position had changed since making representations on the Plan should submit this information as further statements, rather than seeking to amend earlier representations. Any statements that were of excessive length or contained irrelevant or repetitious material would be returned by the Programme Officer.

6.11 With reference to **statements of common ground** – or uncommon ground – these could provide considerable opportunities to save time, cost, remove duplication and reduce the bulk of paper. They helped the Hearings to concentrate on the key issues that truly needed public discussion. They could include, for example, agreed wording of a suggested change to a policy, factual information, or areas or points of disagreement. This work should commence immediately, with the aim of completing them in time to feed into the relevant Hearing Statement.

- 6.12 On the matter of photocopying, a charge would be levied if this service was requested from the Programme Officer and the Inspector asked that such requests be kept to a minimum, since Katharine would be busy during the hearings attending to a wide range of other matters.
- 6.13 The Inspector then invited questions from the floor on matters covered under agenda item 6.
- 6.14 Ms Russell representing SEGRO asked whether **appendices** already submitted with representations should be appended to the hearing statements for clarity. The Inspector replied that he wished to keep paperwork to a minimum and where documents were already in the Examination Library, reference should be made to them in the statements which would enable member of the public to access them. Alternatively, the conclusions could be highlighted in the statement. The Programme Officer could provide further advice on this matter.
- 6.15 Cllr Golding asked whether participants should submit a single statement for **Issue 5**, covering all 12 greenfield site allocations. The Inspector confirmed this but asked that a new page be started for each site, to assist with circulation of statements for each session. The Council was asked to provide a strategic overview on Issue 5, keeping paper to a minimum, although an extended allocation would be permitted as set out in the Key Issues and Discussion Note [PS/01/13].
- 6.16 Ms Fisher confirmed that the Council intended to produce **Statements of Common Ground** for each of the greenfield site allocations, including inset maps. The aim was to produce these by the end of August in order to allow people to comment in their hearing statements. The Inspector thanked the Council for this helpful approach which would lead to a more focussed examination.

7. Hearing arrangements and procedure

- 7.1 Moving on to the hearings arrangements, the Inspector confirmed that the hearings would commence at **10.00am on Tuesday 6 October 2015**. On subsequent days, hearing sessions would begin at **9.30am** which was a change from the time published in the Guidance Note [PS/01/11] and draft programme V1 dated 17 July 2015. The latter indicated that the hearings would extend over five weeks, ending on **Wednesday 11 November 2015** – this was based on the number of participants to date. However, the programme might revert to six weeks if the number of participants rose, as the Inspector wished to be as inclusive as possible. In his experience, the maximum number of participants for an effective round table discussion was 20 – if more than 20 requests were received for individual sessions, extra sessions would be programmed.
- 7.2 The Inspector explained that separate Hearing sessions would be held for **each of the 11 issues** set out in his Key Issues and Discussion Note [PS/01/13] and in some cases for key sites (e.g. proposed major greenfield site allocations) and key topic areas (e.g. Sustainability Appraisal and Habitats

Regulations Assessment.

7.2 Everyone present was welcome to attend to listen to the debates even if they were not taking part, as all sessions would be open to the public and to the press. The sessions would normally take the form of **round table discussions**, where several parties were present. This approach would provide an informal setting for dealing with issues, by way of discussion that the Inspector would lead. The Council would be invited to make an **opening presentation** at the start of the hearings and there would be a more informal way of opening individual sessions – the Inspector might ask other parties to ‘set the ball rolling’ on some issues.

7.3 Those attending the Hearing sessions were permitted to bring with them professional advocates and witnesses, although there would be **no formal presentation** of evidence or cross-examination. There was no need for parties to bring advocates/legal representation but, if they did, they should take part as a member of the team, rather than as a traditional advocate.

8. Hearings Programme

8.1 The Inspector noted that a Draft Programme (V1 dated 17 July 2015) for the hearing sessions had already been circulated. This would be regularly updated and published on the Examination website. The Inspector then outlined the programme as set out, making particular references as follows.

8.2 Mondays and Fridays had been set aside as **reserve dates**, in case further sessions were required. All sessions other than the first would commence at **9.30am** – this would be corrected in future versions.

8.3 In Week 1, the afternoon session on **6 October** would focus on the **Sustainability Appraisal** and Habitats Regulations Assessment. These matters have been the focus of many High Court cases recently. Therefore the Inspector wished to ensure that they were discussed in as much detail as possible. **Housing** would be considered across two sessions on 7 and 8 October.

8.4 **Neighbourhood Plans** would be discussed in Week 2 on 14 October – the Inspector noted that a query on this matter had already been received.

8.5 **Individual greenfield site allocations**, some of which had been grouped together geographically, would be considered in Weeks 2 and 3. Manydown and Basingstoke Golf Course & Hounsome Fields had been allocated a whole day each due to the volume of requests to participate on these topics. The Inspector explained that the site specific sessions would include consideration of other issues such as transport, traffic access and environment, where these had been raised, so it was not necessary for those interested in a particular site to attend the later sessions as well.

8.6 **Issue 6 Omission sites** would be considered on 22 October and, depending on the volume of requests to participate, it might be necessary to set a time limit for participants. Friday 23 October was available as a reserve date if required.

- 8.7 The Examination would take a week's break on 26 October, returning on 3 November to consider **Issues 7 to 9**, including the Economy, Town Centres, Infrastructure and Transport. The final week would consider **Issue 10**: Environment and **Issue 11**: Development Management, Risks and Monitoring. Under the current programme (V1), the Examination would finish with closing statements on 11 November.
- 8.8 The Inspector reminded everyone that the purpose of the detailed agendas for each session, as set out in the first instance in the Key Issues & Discussion Note [PS/01/13], was to focus attention on those matters which he had identified as areas where he was seeking a fuller understanding of the issues and respective positions. The Guidance Note [PS/01/11] invited those who felt that there were **important matters that had not been identified** for discussion to contact the Programme Officer by **31st July 2015**, giving the reasons why their issue(s) should be included.

9. Site Visit Arrangements

- 9.1 The Inspector said that he had already started to familiarise himself with the areas and sites referred to in the representations, and he would continue to carry out unaccompanied site visits. If there were any areas or sites which respondents wished him to visit on an accompanied basis towards the end of the Hearing sessions, such requests should be made in writing to the Programme Officer by **31st July 2015, stating the reasons why it was felt necessary and the areas on which the Inspector should focus**. Accompanied site visits would require the presence of the Council as well as the participant(s). Visits to sites in private ownership would require the permission of the land owner.

10 Close of the Hearings

- 10.1 Once the Inspector had gathered all the information necessary for him to come to reasoned conclusions and decisions on the main issues, he would then write his report. The Examination itself **remained open** until he submitted his Report to the Council; however, once the Hearing sessions part of the Examination was completed, he could receive **no further information** from any party, unless it was a matter he had specifically requested. Any unsolicited items would be returned to the sender by the Programme Officer.

11. Questions

- 11.1 The Inspector then invited questions from the floor on matters covered under agenda items 7 to 10.
- 11.2 Cllr Langer of Overton Parish Council asked whether, when carrying out **site visits**, the Inspector would make allowances for the time of year with regard to vegetation, since the landscape would look considerably different in the autumn. The Inspector said that reference to this should be made in the statements and, although in general photographs were not permitted as evidence, he would allow them if there were strong grounds such as the effect of the seasons on deciduous woodland. *[Note: there are strict PINS guidelines*

on the submission of photographs – please contact the Programme Officer for details before submission].

- 11.3 Mr Napier of SWAG asked what was the **definition of a 'session'** for the purposes of the maximum five permitted. The Inspector said that, where an issue was to be discussed over more than one day e.g. Issue 5, it would be helpful for prospective participants to indicate the date & time of the session(s) they wished to attend. The maximum of five was intended to aid programming and could be extended in discussion with the Programme Officer.
- 11.4 Mr Chapman of Country Watch and Mr Beevers asked for further clarification on **omission sites**, including what was the deadline for submission of these, how the public could find out what they were, and whether they were those contained in the SHLAA. The Inspector referred to page 5 of his Key Issues & Discussion Note [PS/01/13] which stated that omission sites could not be new sites; they must already have been put forward in previous representations on the Plan. Further details might be included in hearing statements submitted on 11 September by participants promoting such sites and those for discussion would be listed in the hearings programme.
- 11.5 The Inspector added that he did not intend to hear **objections to omission sites** in October/November, since any that might be recommended would need to be subject to public consultation as Main Modifications to the Plan. It was unlikely that most of the omission sites would reach that stage, so it would not be an effective use of time to consider them in detail at the hearings. Later in the meeting, Ms Fisher said that the Council was intending to publish a list of omission sites at the Inspector's request, and it was hoped to do this by the end of August.
- 11.6 Cllr Jones of Dummer Parish Council made reference to the fact that Kennel Farm (policy SS3.2) had already been granted planning permission and asked whether there was any point in discussing it on 14 October. He added that if it were to be discussed, it should be alongside the Golf Course and Hounsome Fields on 21 October (policies SS3.11 and 12). The Inspector confirmed that he did wish to discuss the site and that he had some points to make on site allocations with planning permission, which he would make at the hearings. He thanked Cllr Jones for his suggestion for the revised grouping.
- 11.7 Mr Simmonds asked whether the site visits to greenfield site allocations would be carried out at **peak traffic times** or during quieter periods, since there were many concerns about the ability of the local infrastructure to cope during peak periods. The Inspector replied that, wherever possible, he would try to ensure that he experienced travel in peak periods and asked that such requests be made in advance so they could be timetabled.

12. Submission of Inspector's report to the Council

- 12.1 The Inspector went on to set out an indicative timetable for the submission of his report to the Council. He explained that it was very likely that the Council would propose further Main Modifications to the Plan during and following the public hearings. These would require a period of public consultation which could take place during January/February 2016. His report would follow in

March or later, depending on a number of factors. These included the possibility of holding further hearings to consider the impact of new legislation or representations received by the Council on the further Main Modifications.

- 12.2 In response to a question from the Council, the Inspector explained that the normal procedure was for the list of Main Modifications to be issued informally and agreed between the Council and the Inspector, via the Programme Officer, prior to public consultation. The Inspector normally saw the Council's list of Minor Modifications, which did not go to soundness, at the same time, in order to ensure that none of these were in fact Major Modifications. He would not issue his report until after he had considered the responses to the consultation on Main Modifications. Once drafted, the Inspector's report had to be sent to the Planning Inspectorate for quality assurance before it was issued to the Council for 'fact checking'. The final report would be issued to the Council once these stages had been completed.

13. Closing remarks

- 13.1 The Inspector asked participants to **keep in touch** with the Programme Officer to check the progress of the Examination and to ensure that they were present at the right Hearing session at the right time. It was important for everyone to check with the Examination website for the latest information on the programme for the Hearing sessions and an Agenda for each of those sessions.
- 13.2 Finally, the Inspector urged everyone to:
- Make the best use of the remaining time before the start of the Hearing sessions, as the deadline for the first tranche of statements was 11 September;
 - Ensure that the timescales and deadlines were adhered to; otherwise attendance at the Hearings may have to be rearranged or curtailed at best;
 - Keep all statements focused and succinct – please read the requirements set out in Appendix B of the Guidance Note – notably the 3,000 word limit!
 - Be aware of all the documents, which are referred to on the Examination web site and Examination Library;
 - Keep in regular contact with the Programme Officer.

The meeting closed at 11.20am